

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:09-CR-216-FL

UNITED STATES OF AMERICA)
)
 v.)
)
 DANIEL PATRICK BOYD, a/k/a)
 "Saifullah;")
 HYSEN SHERIFI;)
 ANES SUBASIC;)
 ZAKARIYA BOYD, a/k/a "Zak;")
 DYLAN BOYD, a/k/a "Mohammed;")
 MOHAMMAD OMAR ALY HASSAN;)
 and)
 ZIYAD YAGHI,)
)
 Defendants.)
)

ORDER

This matter is before the court on motion of the United States of America for pretrial conference pursuant to the Classified Information Procedures Act ("CIPA"). While said motion refers on its face only to six defendants, it appears the issues necessary to be considered relate also to another defendant whose appearance is noted, Dylan Boyd, a/k/a "Mohammed." Said pseudonym made reference to in the case caption appearing in the instant motion is instead attributed to Zakariya Boyd. As to all defendants, this motion is ALLOWED. Pretrial conference will be scheduled at a date and time certain before the undersigned, as promptly as practicable, upon receipt and review of the magistrate judge's report as set forth below.

Said conference is of course separate and apart from the status conference scheduled for tomorrow at the Terry Sanford Federal Building and Courthouse. This conference set for Tuesday,

August 4, 2009, relates solely to motions for detention in the case, now before Magistrate Judge William E. Webb. There is also the separate matter of the pretrial conference ordered July 31, 2009, to be conducted among the parties on or before August 14, 2009. An August 26, 2009 deadline is established for the filing of any pretrial motions, including motions to compel discovery.¹

Pretrial conference pursuant to CIPA referred to in the instant motion is sought not earlier than one month from this date, to permit the government opportunity to determine whether certain classified material exists which is subject to disclosure and in order to fully comply with the government's obligations in discovery. Filing of the instant motion suggests that the framework for disposition of the cases established in the prior scheduling orders may not be workable, at least as it relates to any motions in discovery of or relating to this category of information not proposed to be disclosed sooner than September 3, 2009.

While the conference and hearings tomorrow before Magistrate Judge Webb are limited to the matters and things at issue of or relating to the government's motions for pretrial detention, where at least one defendant already has lodged a request for discovery on the record, the government tomorrow shall clarify a) what categories of discovery shall be made available without delay; b) the earliest date by which it is able to complete its review of other material which may be implicated by CIPA and subject also to discovery; and c) any changes needing to be made to the schedule of these cases now memorialized in the court's orders entered July 31, 2009. The defendants' views on these matters also shall be received tomorrow and included by Judge Webb

¹ The court presumes the omission of defendant Anes Subasic from the caption of the second scheduling order entered July 31, 2009 (DE #90) to be a scrivener's error. Scheduling matters as to this defendant also shall be clarified tomorrow and the position of this defendant included in the magistrate judge's report to the court made mention of below.

in report to the undersigned, also to be made as promptly as practicable. Upon receipt of this report, the court will set pretrial conference in accordance with the CIPA and this order, to consider more particularly issues involving classified information, any necessary changes to the case schedules, and such other matters as may be appropriate to be heard.

SO ORDERED, this the 3rd day of August, 2009.



LOUISE W. FLANAGAN
Chief United States District Judge